

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-15-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the neuromuscular re-education, therapeutic activities and therapeutic exercises were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 02-23-04 to 05-26-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 31st day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date:	1/31/2005
Injured Employee:	
MDR :	M5-05-0878-01
TWCC #:	
MCMC Certification #:	5294

DETERMINATION: Deny

Requested Services:

Please review the item in dispute: Were the neuromuscular re-education, therapeutic activities, and therapeutic exercises on 02/23/2004 to 05/26/2004 medically necessary?

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on **12/08/2004**, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity of neuromuscular re-education, therapeutic activities, and therapeutic exercises on 02/23/2004 to 05/26/2004 is not established.

This decision is based on:

- TWCC Notification of IRO Assignment dated 12/8/2004
- TWCC MR-117 dated 12/8/2004
- TWCC-60s stamped received 11/15/2004 2 pgs, 11/19/2004 8 pgs
- Corvel RE: MDR for Nina Loza, PT dated 11/30/2004 2 pgs
- TWCC-62 stamped received 11/19/2004 13 pgs
- Corvel explanation of Review for DOS 4/7/2004 to 5/21/2004 18 pgs
- Dr. Donald Wehmeyer, DDE exams dated 8/20/2004, 8/13/2004, 4/22/2004, 4/15/2004 8 pgs
- TWCC-69 dated 4/22/2004
- Work and Rehab prescriptions dated 2/13/2004, 3/15/2004, 4/12/2004, 4/26/2004, 5/10/2004
- Work and Rehab: Shoulder Activity Flow Sheets for DOS 2/13/2004 to 5/26/2004 8 pgs; Daily Charge Tickets 2/23/2004 to 5/26/2004 19 pgs; Shoulder Reevaluation dated 2/13/2004, 2/24/2004; Work Conditioning/Work Hardening Staffing reports dated 1/20/2004, 4/4/2004, 4/6/2004, 3/16/2004, 3/09/2004, 3/2/2004; letter to Dr. Funk dated 2/25/2004

Records indicate that the above captioned individual was allegedly involved in an occupational incident on ____, when he slipped and fell, injuring his right shoulder. The injured individual sought care under the administration of an orthopedic surgeon the next day. X-rays were taken and a diagnosis of a Type II acromion was assigned. MRI exam dated 06/06/2003 revealed a full thickness tear of the supraspinatus tendon and a partial tear of the infraspinatus tendon. Surgery was performed on 06/25/2003 and post-operative rehabilitation program was initiated. Eventually, a second surgery was performed on 11/12/2003 and post-operative rehab was again initiated.

The documentation does not provide or establish the medical necessity of the above list of procedures on the dates of service captioned above. Specifically, this injured individual underwent two shoulder surgeries, the last of which occurred on 11/12/2003. Post-operative rehabilitation was performed after both surgeries and was initiated within a month of the second surgery dated 11/12/2003. Most standards of care within the chiropractic profession would provide for up to eight weeks of post-operative rehab for typical cases. Given the fact that this injured individual underwent two surgeries and that the injuries were significant, a longer period of post-operative rehab could be reasonably expected. However, in this particular case, there is no clinical evidence that

this injured individual was positively benefiting from the post-operative rehabilitation, which commenced shortly after 11/12/2003. The documentation does not indicate that an initial entrance exam or functional evaluation was performed to develop a baseline of data from which to later ascertain if progress were being achieved. It does appear that serial cursory exams were performed. These serial exams are dated 02/13/2004, 02/23/2004, 03/31/2004, 04/23/2004, 04/28/2004, and 05/19/2004. However, these serial exams do not appear to be consistent comparative data as some ranges of motion were conducted supine, some standing and others sitting. Furthermore, these serial exams do not establish that positive objective progress was being attained and documented in response to the ongoing course of active rehab. In fact, the comparative objective data appears to suggest that the injured individual's condition was actually objectively deteriorating instead of progressing. Active ranges of motion in the shoulder appear to have diminished from 02/13/2004 through 05/19/2004. Similarly, grip strength also deteriorated from 02/13/2004 through 05/19/2004.

The claimant attended a protracted course of care in regards to post operative therapy. Throughout the course of post-operative rehab, records indicate that the injured individual displayed decreased ranges of motion, decreased grip strength, atrophy and disfigurement of the right shoulder musculature, positive orthopedic tests and muscular weakness. A designated doctor exam dated 08/20/2004 determined the injured individual to be at MMI.

Given the length of postoperative care as of 02/23/2004 and the lack of demonstrable objective clinical gain, and given the fact that no initial exam was submitted to establish a baseline of objective data, the medical necessity for the procedures listed above is not established.

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing **Chiropractor** and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5).

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this

31st day of January 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____